
A BILL FOR AN ACT

RELATING TO FISHING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 **PART I**

2 SECTION 1. The legislature finds and declares that fishing
3 in Hawaii is a tradition woven into its island communities and
4 local cultures that has been passed down for generations. The
5 legislature finds that Hawaii's nearshore reef fisheries have
6 declined over the years due to a variety of threats to the
7 nearshore ecosystem, including runoff, sedimentation, pollution,
8 lack or profusion of fresh water intrusion into the marine
9 ecosystem, overharvesting, and the introduction of invasive
10 species.

11 The Hawaii Constitution, article XI, section 1, declares in
12 part that, "[f]or the benefit of present and future generations,
13 the State and its political subdivisions shall conserve and
14 protect Hawaii's natural beauty and all natural resources,
15 including land, water, air, minerals and energy resources, and
16 shall promote the development and utilization of these resources
17 in a manner consistent with their conservation and in
18 furtherance of the self-sufficiency of the State."

1 The State, through the department of land and natural
2 resources, has jurisdiction over management of the State's
3 marine waters, extending from the upper reaches of the wash of
4 the waves on shore seaward to the limit of the State's police
5 power and management authority. Section 187A-2, Hawaii Revised
6 Statutes, further charges the department to, among other things:

7 (1) Manage and administer the aquatic life and aquatic
8 resources of the state;

9 (2) Establish, manage, and regulate public fishing areas,
10 artificial reefs, fish aggregating devices, marine
11 life conservation districts, shoreline fishery
12 management areas, refuges, and other areas; and

13 (3) Gather and compile information and statistics
14 concerning the habitat and character of, and increase
15 and decrease in, aquatic resources in the State,
16 including the care and propagation of aquatic
17 resources for protective, productive, and aesthetic
18 purposes, and other useful information that the
19 department deems proper.

20 The division of aquatic resources of the department of land
21 and natural resources further states that as part of its
22 mission, "[m]ajor program areas include projects to manage or

1 enhance fisheries for long-term sustainability of the resources,
2 protect and restore the aquatic environment, protect native and
3 resident aquatic species and their habitat, and provide
4 facilities and opportunities for recreational fishing."

5 The legislature finds that it is the primary responsibility
6 of the department of land and natural resources to protect our
7 limited natural resources. Carrying out this responsibility
8 should be balanced with the responsibility of ensuring the
9 public's reasonable use of these resources, if such use or
10 activity can be carried out without undue harm to the resources.

11 The department of land and natural resources is presently
12 conducting statewide public informational meetings to listen to
13 concerns and suggestions from the public regarding the taking
14 and protection of three main fish families that the department
15 feels may be in need of updated regulations. These three main
16 fish families are the parrotfish (uhu), the goatfish (weke/moana
17 kali), and the jacks (ulua/papio).

18 Some members of the public have expressed concern that the
19 department of land and natural resources will use the
20 information gathered at these public meetings, without the
21 benefit of any supporting data, as the sole basis to design the
22 new rules and restrictions. The department of land and natural

1 resources has publicly stated, "[t]he input we receive from the
2 public will help the division of aquatic resources design rules
3 that will support the ongoing conservation of our marine
4 resources while balancing the needs of recreational, subsistence
5 and commercial fishers."

6 The purpose of this part is to require the department of
7 land and natural resources to consider and incorporate available
8 and relevant data for any new rules to regulate the taking of
9 uhu, weke/moana kali, and ulua/papio, in addition to the input
10 the department receives from the public at informational
11 meetings. This part also directs the department of land and
12 natural resources to provide an appropriate monitoring and
13 evaluation component to determine the effect of the rules
14 adopted regarding the uhu, weke/moana kali, and ulua/papio fish
15 populations and the effect that runoff, sedimentation,
16 pollution, and other factors have on these fish populations.

17 SECTION 2. The department of land and natural resources
18 shall:

19 (1) Continue to hold public informational meetings to hear
20 concerns and suggestions from the public regarding the
21 taking and protection of uhu, weke/moana kali, and
22 ulua/papio;

1 (2) Use and present all available relevant data to support
2 rules proposed based on the public input regarding the
3 taking and protection of uhu, weke/moana kali, and
4 ulua/papio;

5 (3) To the extent practicable, develop a monitoring and
6 evaluation program to determine the effects that
7 runoff, sedimentation, pollution, lack or profusion of
8 fresh water intrusion into the marine ecosystem,
9 overharvesting, and the introduction of invasive
10 species have on the population and on the ecosystem
11 that affects the habitat and forage of uhu, weke/moana
12 kali, and ulua/papio; and

13 (4) Develop a monitoring and evaluation program to assess
14 the effectiveness over time of a proposed rule
15 regarding the taking and protection of uhu, weke/moana
16 kali, and ulua/papio.

17 **PART II**

18 SECTION 3. In the past century, there was a ten-fold
19 decline in the amount of opihi available in markets, and the
20 average amount of opihi has further been halved in the past
21 forty years. The people of Hawaii, opihi harvesters, university
22 scientists, and marine resource managers agree that the

1 popularity of opihi as a delicacy has led to overharvesting
2 statewide and the decline of natural populations. Notably, the
3 island of Oahu has been hit especially hard, where *Cellana*
4 *exarata* and *Cellana sandwicensis* are rare, and *Cellana talcosa*
5 is functionally absent.

6 Opihi comprise four species of saltwater Hawaiian limpets
7 and are found nowhere else on earth. The blackfoot opihi
8 (*Cellana exarata*), also known as "opihi makaiauli", is found on
9 the upper portion of wave-washed intertidal shores from Puhahonu
10 (Gardner Pinnacles) to the island of Hawaii. The yellowfoot
11 opihi (*Cellana sandwicensis*), also known as "opihi alinalina",
12 is found on the middle-low portion of wave-washed intertidal
13 shores from Mokuapapapa (French Frigate Shoals) to the island of
14 Hawaii. Opihi koele, also known as the "kneecap" opihi (*Cellana*
15 *talcosa*), is found from the shallow subtidal to the middle
16 intertidal zone on shores from Niihau and Kauai to Hawaii. The
17 greenfoot opihi (*Cellana melanostoma*) is commonly observed
18 throughout the intertidal zone from Puhahonu to Nihoa, and is
19 less commonly observed in the main Hawaiian Islands.

20 Although opihi can be collected year-round, opihi shells
21 must be at least one and one-fourth inches in the longest

1 dimension, or the meat must be at least a half-inch in length,
2 to be legally harvested in Hawaii.

3 The key to increasing the sustainable harvest of opihi
4 populations is protecting a portion of the populations so that
5 they may reproduce and create the next generation. Fisheries
6 replenishment/management areas are a promising management tool
7 to protect breeding populations, while allowing harvest in
8 unprotected areas. The life history characteristics of opihi
9 are perfectly suited to this management strategy because the
10 adults will stay within the protected areas, and the opihi
11 larvae can disperse within an island and replenish both
12 harvested and protected areas.

13 The purpose of this part is to rehabilitate the natural
14 populations of all Hawaiian opihi species and establish a new
15 direction for the management of the fishery. This part is
16 intended to increase both long-term standing-stock opihi
17 abundance, as well as the amount of opihi available for use by
18 the people of Hawaii.

19 SECTION 4. Chapter 188, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:

1 "§188-A Opihi harvesting and possession, restricted. (a)

2 Except as provided in this section, it shall be unlawful for any
3 person at any time to take, harvest, or possess opihi from any
4 coastal area or nearshore waters of off-shore islets in the
5 State, including, but not limited to those islands listed in the
6 Atlas of Hawaii, Third Edition (1998), man-made jetties and
7 breakwaters, as well as fishery management areas (FMA),
8 fisheries replenishment areas (FRA), natural area reserves
9 (NAR), refuges, and marine life conservation districts (MLCD)
10 established by the department of land and natural resources,
11 division of aquatic resources.

12 (b) It shall be unlawful for any person at any time of the
13 year to take, harvest, or possess opihi from below the waterline
14 of any coastal area or nearshore waters of the islands of the
15 State.

16 (c) It shall be unlawful for a person to be in possession
17 of at least one item from each of the following paragraphs, at
18 the same time:

19 (1) Equipment or any apparatus that would allow a person
20 to see and remain underwater, such as a swimming mask,
21 snorkel, or self-contained underwater breathing
22 apparatus;

1 (2) An instrument that is commonly used as a tool to
2 harvest or take opihi such as an opihi knife; and

3 (3) Live opihi.

4 (d) It shall be unlawful for any person to take or harvest
5 opihi from above the waterline of the coastal areas or nearshore
6 waters of the State or be in possession of opihi within the
7 State during the closed seasons from February 1st through May
8 31st, and September 1st through November 30th; provided that
9 opihi taken or harvested from above the waterline during the
10 open seasons may be possessed for sale or consumption during the
11 closed seasons.

12 (e) It shall be unlawful for any person to take or harvest
13 an amount greater than one quart of opihi with shells attached,
14 or one half pint of opihi without shells attached, per day
15 during the open seasons, as described in subsection (d).

16 (f) The division of aquatic resources of the department of
17 land and natural resources shall submit an annual report on the
18 effectiveness and enforcement of this section to the legislature
19 not later than twenty days prior to each regular session.

20 (g) As used in this section, "opihi" means all known
21 Hawaiian opihi species, including Cellana exarata (blackfoot),

1 Cellana sandwicencis (yellowfoot), Cellana talcosa (koele), and
2 Cellana melanostoma (greenfoot).

3 (h) The Kahoolawe island reserve commission shall govern
4 the taking, harvesting, or possessing of opihi in the Kahoolawe
5 island reserve, including the islands of Puukoa and Aleale.

6 (i) This section shall not affect any right, customarily
7 and traditionally exercised for subsistence, cultural, and
8 religious purposes and possessed by ahupuaa tenants who are
9 descendants of native Hawaiians who inhabited the Hawaiian
10 Islands prior to 1778, subject to the right of the State to
11 regulate such rights; provided that this subsection shall not
12 apply to the taking of opihi from below the waterline at
13 anytime."

14 SECTION 5. Chapter 188, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 **"§188-B Opihi harvesting or taking; Oahu; prohibited.**
18 Except as provided in section 188-A(h), and notwithstanding any
19 other provision to the contrary, it shall be unlawful for any
20 person at any time to take or harvest opihi from the coastal
21 areas or nearshore waters of the island of Oahu."

22 **PART III**

1 SECTION 6. In recent years, the number of uhu and goatfish
2 found on reefs surrounding the island of Maui has declined. The
3 popularity of uhu and goatfish as food fish has led to over-
4 harvesting on the island of Maui and has made harvesting these
5 fish for food difficult.

6 There are eight species of uhu (family *Scaridae*) in Hawaii.
7 Also known as parrotfish, once commonly found on reefs
8 surrounding Maui, uhu is the most prolific contributor of sand
9 production of all Hawaiian reef fishes.

10 The redlip uhu (*Scarus rubroviolaceus*), also known as uhu
11 palukaluka, the stareye uhu (*Calotomus carolinus*), also known as
12 ponuhunuhu, the spectacled uhu (*Chlorurus perspicillatus*), also
13 known as uhu uliuli (male) and uhu'ahu'ula (female), are the
14 preferred species for eating.

15 There are also five other types of uhu, the yellowbar uhu
16 (*Calotomus zonarchus*), bullethead uhu (*Chlorurus sordidus*),
17 regal uhu (*Scarus dubius*), spinytooth uhu (*Calotomus spinidens*)
18 and palenose uhu (*Scarus psittacus*). The spectacled, yellowbar,
19 and regal uhues are endemic to Hawaii.

20 There are several species of goatfish (family *Mullidae*) in
21 Hawaii. The three species most sought after as a food fish are
22 the white saddle goatfish (*Parupeneus porphyreus*), also known as

1 kumu, the blue goatfish (*Parupeneus cyclostomus*), also known as
2 moano ukali, and the double bar goatfish (*Parupeneus*
3 *bifasciatus*), also known as munu, commonly found on reefs
4 surrounding Maui. This family of fish is highly prized as a
5 food fish and cherished by many ethnic cultures.

6 Although uhu can be harvested year-round, the regal uhu,
7 palenose uhu, redlip uhu, bullethead uhu, and the spectacled
8 uhu, require a minimum length of twelve inches by measure of
9 fork length (the distance from the fish's mouth or snout to the
10 fork of the tail) to be legally harvested in Hawaii. Although
11 kumu can be harvested year-round, the white saddle goatfish must
12 have a minimum length of ten inches by measure of fork length to
13 be legally harvested in Hawaii. The moano ukali and munu are
14 unregulated species and currently have no size restrictions.

15 The purpose of this part is to require a bag limit for uhu
16 and goatfish to no more than two each of kumu, moano ukali,
17 munu, and uhu per person, per day, for recreational,
18 subsistence, or commercial purposes on the island of Maui.

19 This part also provides for exemptions and creates minimum
20 size limits for all species of uhu, kumu, moano ukali, and munu.

1 SECTION 7. Chapter 188, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§188- Uhu; goatfish; bag limit. (a) It shall be
5 unlawful for any person to take, possess, or sell more than two
6 kumu, two moano ukali, or two munu per day on Maui; provided
7 that a commercial marine dealer may possess and sell more than
8 two kumu, two moano ukali, and two munu, with receipts issued
9 for the purchase pursuant to section 189-11.

10 (b) It shall be unlawful for any person to take, possess,
11 or sell any kumu, moano ukali, or munu less than ten inches in
12 length on Maui.

13 (c) It shall be unlawful for any person to take, possess,
14 or sell more than two uhu per day on Maui; provided that a
15 commercial marine dealer may possess and sell more than two uhu
16 with receipts issued for the purchase pursuant to section
17 189-11.

18 (d) It shall be unlawful for any person to take, possess,
19 or sell any uhu less than twelve inches in length on Maui.

20 (e) The department may issue permits to engage in
21 activities otherwise prohibited by law, in accordance with
22 section 187A-6, or as may be otherwise authorized by law.

1 (f) As used in this section:

2 "Goatfish" means the species of the family Mullidae that
3 includes the kumu, munu, and moano ukali.

4 "Kumu" means any fish known as Parupeneus porphyreus or any
5 recognized synonym.

6 "Length" means the straight line measurement from the tip
7 of the snout to the middle of the trailing edge of the tail.

8 "Maui" means the entire island of Maui, including its state
9 marine waters.

10 "Moano ukali" means any fish known as Parupeneus
11 cyclostomus or any recognized synonym.

12 "Munu" means any fish known as Parupeneus bifasciatus or
13 any recognized synonym.

14 "Sell" means, with respect to uhu and goatfish, to:

15 (1) Solicit and receive an order for;

16 (2) Have, keep, offer, or expose for sale;

17 (3) Deliver for value or in any other way than purely
18 gratuitously;

19 (4) Peddle;

20 (5) Keep with the intent to sell; or

21 (6) Traffic-in the sale of uhu or goatfish.

1 "Take" means to fish for, catch, capture, confine, or
2 harvest, or to attempt to fish for, catch, capture, confine, or
3 harvest aquatic life. The use of any gear, equipment, tool, or
4 any means to fish for, catch, capture, confine, or harvest,
5 aquatic life, by any person who is in the water, or in a vessel
6 on the water, or on or about the shore where aquatic life can be
7 fished for, caught, captured, confined, or harvested, shall be
8 construed as taking.

9 "Uhu" means any fish known as Scarus rubroviolaceus,
10 Chlorurus sordidus, Chlorurus perspicillatus, Scarus dubius,
11 Scarus psittacus, Calotomus spinidens, Calotomus zonarchus, or
12 Calotomus carolinus, or any recognized synonym."

13 **PART IV**

14 SECTION 8. New statutory material is underscored.

15 SECTION 9. This Act shall take effect upon its approval;
16 provided that section 2 shall be repealed on June 30, 2010;
17 provided further that section 5 shall be repealed on June 30,
18 2014; provided further that section 7 shall be repealed on the
19 effective date of administrative rules adopted by the department
20 of land and natural resources that address the taking, sale,
21 minimum size, and bag limits of the marine fish species
22 identified in this Act for the island of Maui.

Report Title:

Ocean Resources; Fishing Rules; Opihi; Uhu; Goatfish; Bag Limits

Description:

Requires DLNR to consider relevant data to support the adoption of rules to regulate the taking of uhu, weke/moana kali, and ulua/papio, and develop a monitoring and evaluation program to determine the effectiveness of rules adopted and the effects of specified habitat threats on the regulated fish. Establishes a five year moratorium on the harvesting of opihi on Oahu, and a ban on taking or harvesting opihi statewide, subject to open and closed seasons, bag limits, and the traditional rights of certain ahupuaa tenants. Establishes a fishing bag limit and size restrictions for Maui for uhu and goatfish. (SD1)